

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KEITH A. GRACE
38 Burton Woods Lane
Cincinnati, OH 45229

Plaintiff,

v.

UNIVERSITY OF CINCINNATI
c/o Mitchell D. McCrate, Assoc. Gen. Counsel
University Pavilion, Suite 650
Cincinnati, OH 45221

Defendant.

: Case No. 1:10-cv-315

:
: Judge _____

:
: **COMPLAINT WITH JURY DEMAND**
: **ENDORSED HEREON**
:
:

Plaintiff Keith Grace complaining of Defendant University of Cincinnati, alleges the following:

PARTIES

1. Plaintiff Keith Grace is a citizen and resident of the State of Ohio.
2. Defendant University of Cincinnati ("UC") is an educational institution organized and operated under the laws of the State of Ohio. Defendant UC is an employer within the meaning of federal law.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear this case pursuant to 28 U.S.C. §1331 because it arises under the laws of the United States. Plaintiff's Counts I and II arise under Title VII of the Civil Rights Act of 1964 as amended.
4. Venue is proper in the Southern District of Ohio, Western Division, pursuant to 28 U.S.C. §1391(b) because a substantial part of the events given rise to these claims occurred in the Southern District of Ohio, Western Division.
5. Plaintiff filed a timely charge of discrimination against Defendant with the Equal Employment Opportunity Commission ("EEOC") under its worksharing agreement with the

Ohio Civil Rights Commission. He filed a charge on May 7, 2009, less than 180 days after being notified of his termination on March 2, 2009.

6. The EEOC did not rule that his charge was untimely.

7. A Notices of Right to Sue was mailed from the EEOC on February 17, 2010.

8. Plaintiff filed this Complaint on May 18, 2010, within 90 days of his receipt of the EEOC Notices of Right To Sue.

FACTUAL ALLEGATIONS

9. Plaintiff is an African American male.

10. Plaintiff began his employment with Defendant UC in September 2007.

11. Plaintiff held the position of Senior Director of Total Compensation and Wellness (“TCW”) under the Chief Human Resources Officer at the time, Gary Dent.

12. Plaintiff was fully qualified for his position at all relevant times.

13. Plaintiff was a loyal and dedicated employee.

14. During Plaintiff’s employment with Defendant he received no discipline and no performance concerns were ever raised.

15. In November of 2008, Mr. Dent left his position with UC and Karen Faaborg, a Caucasian female, was appointed to replace Mr. Dent effective January of 2009.

16. Plaintiff was asked to assume the duties of the Chief Human Resources position in addition to his normal duties as Senior Director of TCW during this two month period.

17. Plaintiff was never given any indication that there was ever a performance problem during his employment.

18. Once Ms. Faaborg assumed the duties of the Chief Human Resources position she began to treat Plaintiff less favorably than other similarly situated Caucasian and/or female and/or younger employees.

19. On March 2, 2009, Ms. Faaborg terminated Plaintiff. Ms. Faaborg stated that Plaintiff was being terminated without cause. Ms. Faaborg informed Plaintiff that he would be replaced by Liz Aumann.

20. Ms. Aumann is a Caucasian female.

21. Plaintiff was more qualified and had more experience for the position of Senior Director of TCW than Ms. Aumann.

COUNT I

(Race Discrimination - Title VII)

22. Plaintiff realleges the foregoing paragraphs as if fully rewritten.

23. Plaintiff is African American and fully qualified for his position at the time of his termination.

24. Defendant replaced Plaintiff with a Caucasian employee.

25. Plaintiff's termination permitted the hiring and/or retention of Caucasian employees.

26. Defendant's conduct in treating Plaintiff differently from similarly situated Caucasian employees and terminating Plaintiff's employment on account of Plaintiff's race, violates Title VII of the Civil Rights Act of 1964, as amended.

27. Defendants' conduct was intentional, willful, wanton, malicious and in reckless disregard for Plaintiff's rights.

28. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered injury and damage for which he is entitled to judgment.

COUNT II

(Gender Discrimination – Title VII)

29. Plaintiff realleges the foregoing paragraphs as if fully rewritten herein.

30. Plaintiff, a male, was fully qualified for his position at all relevant times.

31. Defendant replaced Plaintiff with a female employee and treated Plaintiff differently than female employees.

32. Defendant terminated Plaintiff's employment because of his gender in violation of Title VII.

33. Defendant's conduct was intentional, willful, wanton, malicious and in reckless disregard for Plaintiff's rights.

34. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered injury and damage for which he is entitled to judgment.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

(a) That Defendant be enjoined from further unlawful conduct as described in the Complaint;

(b) That Plaintiff be reinstated to his employment with Defendant;

(c) That Plaintiff be awarded all pay and benefits lost from Defendant;

(d) That Plaintiff be awarded compensatory damages from Defendant;

(e) That Plaintiff be awarded liquidated damages from Defendant;

(e) That Plaintiff be awarded punitive damages from Defendant;

(f) That Plaintiff be awarded pre-judgment interest from Defendant;

(g) That Plaintiff be awarded reasonable attorneys' fees and costs from Defendant;

(h) That Plaintiff be compensated for the adverse tax consequences of receiving a lump sum award rather than his compensation over several, separate tax years; and

(i) That Plaintiff be awarded all other legal and equitable relief to which he may be entitled from Defendant.

Respectfully submitted,

/s/ Kelly Mulloy Myers

Kelly Mulloy Myers (0065698)

Jon B. Allison (0073955)

Trial Attorneys for Plaintiff

FREKING & BETZ, LLC

525 Vine Street, Sixth Floor

Cincinnati, OH 45202

Phone: (513) 721-1975/Fax: (513) 651-2570

kmyers@frekingandbetz.com

jallison@frekingandbetz.com

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues triable.

/s/ Kelly Mulloy Myers